IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 18101 of 2006

DATED: 31.10.2006

Between:

K. Sangaiah petitioner

And

The Presiding Officer, Additional Industrial Tribunal
Cum Addtiional labour Court, Hyderabad
And another
Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 18101 OF 2006

ORAL ORDER:

The present writ petition is filed questioning the order dated 13.09.2005 in I.D. No. 32 of 2003 passed by the first respondent-Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad holding the domestic enquiry conducted against the petitioner as valid.

The petitioner is employed in the second respondent company as Helper. Disciplinary proceedings were initiated against him for his unauthorized absence from duties, by issuance of charge sheet dated 19.06.1995. Having not satisfied with the explanation submitted by the petitioner pursuant to the charge sheet, an enquiry was ordered. The petitioner alleges that the enquiry was conducted in English language in a most unfair manner without following the procedure prescribed. The petitioner also alleges that during the enquiry an impression was given as if the enquiry was being conducted formally and no action would be taken against him for being an active trade union member. However, the enquiry officer submitted an enquiry report holding the petitioner guilty of the charges levelled against him. The petitioner submitted his objections to the enquiry report, but without considering the same, he was terminated from services by order dated 1.11.1995. Questioning the order of termination, the petitioner raised an Industrial Dispute and the same was registered as I.D. No. 32 of 2003 on the file

of the Additional Industrial Tribunal cum Additional Labour Court, Hyderabad. The Labour Court passed orders dated 13.9.2005 holding that the domestic enquiry conducted against the petitioner is valid and observing that the petitioner has actively participated in the domestic enquiry and the statements of the witness of the management were also recorded in his presence and he too has given statement. It also observed that non-service of final orders, did not cause prejudice to the petitioner. Questioning the said order of the Tribunal holding the domestic enquiry as valid, the present writ petition is filed by the petitioner mainly on the ground that by the date of passing impugned order, the enquiry report was not submitted to the Tribunal, and in the absence of the enquiry report, the Tribunal passed the impugned order holding the domestic enquiry as valid.

Learned counsel for the petitioner mainly contended that as on the date when the impugned order dated 13.9.2005 was passed by the Tribunal, the enquiry report was not placed in the records of the Tribunal, and in the absence of enquiry report, the Tribunal erred in holding that the domestic enquiry proceedings conducted against the petitioner are valid. It is contended that after passing the impugned orders dated 13.9.2005, holding the domestic enquiry as valid, the second respondent –Management filed an application seeking permission of the Tribunal to file the enquiry report and the same was taken on record on 27.2.2006. The learned counsel for petitioner further alleges that the copy of enquiry report furnished to the workman is different from the one filed before the Tribunal.

On the other hand, learned counsel for second respondent Mr. A.K. Jayaprakash Rao, strenuously opposed the comments and allegations made in the writ petition and submitted that the enquiry report and other related documents were filed before the Tribunal

below along with counter affidavit, and the Tribunal after considering the enquiry report and other documents, has passed the impugned order dated 13.9.2005 holding the domestic enquiry as valid one. He also submitted that after passing the impugned order, the enquiry report was found missing from the file, and since the enquiry report was not available in the record, the second respondent filed an application seeking permission to file a copy of the enquiry report in the Tribunal. He specifically contended that the Tribunal after considering the enquiry report has passed the impugned order dated 13.9.2005.

Heard the learned counsel for petitioner, learned Government Pleader for Labour and learned Standing Counsel for second respondent company.

The only point that arises for consideration in the writ petition is whether the Tribunal while passing the impugned order holding the enquiry as valid, has considered the enquiry report?

Though several contentions were raised, both the learned counsel for the petitioner as well as the respondent agreed for disposal of the writ petition with a direction to the Tribunal to consider the matter afresh on the question of the validity or otherwise of the domestic enquiry and thereafter proceed further in the matter. In view of the agreed stand taken by both the counsel, without recording any finding on the aspect whether the enquiry report formed part of the record while passing the impugned order dated 13.9.2006, I deem it appropriate to dispose of the writ petition with the following directions:

The impugned order dated 13.9.2006 passed by the Tribunal holding the domestic enquiry as valid is hereby set aside. The Court below is directed to hear the matter afresh and after taking into consideration the additional material produced, if any, by the petitioner

as well as the second respondent company, pass appropriate orders with regard to the validity of the domestic enquiry and proceed further in the matter in accordance with law, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of copy of this order.

Accordingly, the writ petition is disposed of. No costs.

_____

N.V.RAMANA,J

DATE: 31.10.2006

TVK/PVKS

-

-

-